

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Nathan Rosenmutter)	Administrative Order
President)	
General Iron Industries Inc.)	EPA-5-99-IL-4
1909 North Clifton Avenue)	
Chicago, Illinois)	
)	
Proceeding Pursuant to)	
Section 113(a)(3) and 114(a))	
of the Clean Air Act,)	
42 U.S.C. §§ 7413(a)(3) and)	
7414(a).)	
_____)	

STATUTORY AUTHORITY

1. This Administrative Order is issued pursuant to Sections 113(a)(3) and 114(a) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a).
2. Section 608(a)(2) of the Act, 42 U.S.C. § 7671g, authorizes the United States Environmental Protection Agency (U.S. EPA) to promulgate regulations establishing standards of performance for new sources and requirements regarding the use and disposal of Class II substances during service, repair, or disposal of appliances and industrial process refrigeration. The Administrator initially promulgated these regulations on May 14, 1993, 58 Fed. Reg. 28712. The Administrator amended the regulations on August 19, 1994, 59 Fed. Reg. 42956; November 9, 1994, 59 Fed. Reg. 55926; and August 8, 1995, 60 Fed. Reg. 40440. The regulations were codified at 40 C.F.R. Part 82, Subpart F (§ 82.150 et seq.).
3. Under Section 608(c)(1) of the Act, 42 U.S.C. 7671g, it is unlawful for any person, in the course of disposing of an appliance, to knowingly vent or dispose of any Class I or Class II substance used as a refrigerant in such appliance in a manner which permits such substance to enter the environment. Section 602(b) of the Act, 42 U.S.C. § 7671a, lists substances identified by the Administrator as Class I and/or II substances. This list includes hydrochlorofluorocarbons ("HCFC"). The Administrator has determined that the release of these substances into the environment causes ozone-depletion and has a harmful effect

on human health and the environment.

4. Under 40 C.F.R. § 82.154(a), no person disposing of appliances may knowingly vent or otherwise release into the environment any Class I or Class II substance used as a refrigerant in such equipment. 40 C.F.R. § 82.156(a) requires all persons disposing of appliances to " . . . evacuate the refrigerant in the entire unit to a recovery or recycling machine certified pursuant to § 82.158."
5. Appliance is defined as any device which contains and uses a Class I or Class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.
6. Small appliance means products that are fully manufactured, charged, and hermetically sealed in a factory with five pounds or less of refrigerant, including refrigerators and freezers designed for home use. 40 C.F.R. § 82.150.
7. 40 C.F.R. § 82.156(f) requires persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance to either 1) recover any remaining refrigerant from the appliance in accordance with 40 C.F.R. § 82.156(g) or (h); or 2) verify that the refrigerant has been evacuated from the appliance or shipment of appliances previously. Persons regulated under § 82.156 (f)(3) must notify suppliers of appliances that refrigerant must be properly removed before delivery of the items to the facility.
8. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), when information becomes available to the Administrator of U.S. EPA on which the Administrator finds that a person is violating Section 608 of the Act, 42 U.S.C. § 7671g, relating to the release of Class II substances into the environment, the Administrator may issue an order requiring the person to comply with the applicable standards.
9. Under Section 114(a) of the Act, 42 U.S.C. § 7414(a), the Administrator may require any person who owns or operates any emission source or who is subject to any requirement of the Act to provide information required by the Administrator.
10. Under Section 113 of the Act, 42 U.S.C. § 7413, the Administrator may assess and recover a civil penalty of not more than \$27,500 per day of violation from a person who has

received an order under Section 113 of the Act, and has failed to comply with the order.

STATEMENT OF FACTS

11. General Iron Industries, 1909 N. Clifton Ave., Chicago, Illinois is the owner and operator of a scrap processing facility. General Iron is a person who disposes of appliances and small appliances as part of its business operations. General Iron is therefore subject to the regulations at 40 C.F.R. Part 82, Subpart F.
12. On May 24, 1999, U.S. EPA, Region 5 conducted an inspection at the General Iron facility. U.S. EPA's representatives conducting the inspection were Vivian Doyle, Joseph Cardile, and Rae Lynn Trine.
13. Representatives from General Iron, including Adam Labkon, were present at all times during the inspection of the General Iron facility on May 24, 1999.
14. During the inspection, U.S. EPA's representative inspected a staging area where "scrap" items, including appliances and small appliances, were dropped off for processing. The U.S. EPA representatives observed the following in the staging area: A crane picked up unprocessed metal items and dropped them into a large bailer which compressed the metal items into small cubes.
15. During the inspection, U.S. EPA's representatives observed several trucks containing refrigerators, air conditioner units and other types of used appliances, arriving at the facility. The refrigerators and the air conditioner units on the trucks contained intact refrigeration circuits, including compressors, and appeared to contain refrigerant. These appliances were taken to the staging area.
16. At the staging area, the U.S. EPA representatives observed several refrigerators and air conditioner units. These are appliances and/or small appliances under 40 C.F.R. § 82.150. These items had intact refrigeration circuits in some of the appliances, including compressors, and appeared to contain refrigerant.
17. The U.S. EPA representatives observed the crane pick up the refrigerators and air conditioner units that had just been inspected, and place them on the top of the unprocessed metal pile being readied for the bailer. The U.S. EPA

representatives also saw that, during this process, the crane operator ruptured the refrigeration circuits in some of the appliances, including the compressors in the refrigerators. This caused refrigerant, in the form of gas and oil containing refrigerant, to be released into the environment.

18. Mr. Labkon of General Iron informed U.S. EPA representatives that General Iron did not perform any on-site recovery of refrigerant from the appliances and small appliances that it received.
19. Mr. Labkon of General Iron informed U.S. EPA representatives that General Iron did not own or possess any type of refrigerant recovery equipment.
20. Mr. Labkon of General Iron informed U.S. EPA representatives that General Iron did not require signed statements from their suppliers that refrigerant had been properly recovered from the appliance and/or small appliance before being delivered to the facility.
21. U.S. EPA representatives observed that General Iron was unable to produce any written verification statements that could show that the suppliers of the appliances had properly recovered the refrigerant from the appliances, prior to delivering the appliances to the facility.
22. Mr. Labkon of General Iron informed U.S. EPA representatives that the facility processed in excess of 50 appliances per week, including refrigerators, air conditioners, and humidifiers.

FINDINGS OF VIOLATION

23. General Iron disposed of appliances and/or small appliances without first recovering the refrigerant from the appliances or verifying that the refrigerant had been previously evacuated from the appliances, in violation of 40 C.F.R. § 82.156(f).
24. General Iron disposed of appliances and/or small appliances, causing the release into the environment of a Class I and/or Class II substance used as a refrigerant, in violation of Section 608 (c)(1) of the Act, 42 U.S.C. 7671g, and 40 C.F.R. § 82.154(a). The release of these substances into the environment causes ozone-depletion and has a harmful

effect on human health and the environment.

IT IS ORDERED THAT:

25. General Iron must immediately cease and desist all activities involving the disposal of appliances and or small appliances containing refrigerant, at its facility located at 1909 North Clifton Avenue, Chicago, Illinois 60614.
26. General Iron must immediately and continuously thereafter comply with the Section 608 of the Act, 42 U.S.C. 7671g, and 40 C.F.R. Part 82, Subpart F.
27. General Iron must immediately inventory all appliances, small appliances, and scrap materials at the facility that may contain refrigerants. All appliances, small appliances, and scrap materials found to contain refrigerants must be separated from other materials and secured to prevent leakage of refrigerants from the units.
28. General Iron must immediately develop a plan to address how it will handle and dispose of appliances, small appliances and scrap materials containing refrigerants. The plan must include, among other things, arrangements for the recovery of refrigerant from appliances, small appliances, and scrap, or verification that refrigerants have been evacuated prior to delivery of the appliances, in compliance with 40 C.F.R. § 82.156(f). General Iron must submit a copy of this plan to U.S. EPA for approval.
29. General Iron must not commence operations involving the disposal of appliances, small appliances and/or scrap materials that may contain refrigerants until it receives written authorization from U.S. EPA that it may proceed with these operations.

GENERAL PROVISIONS

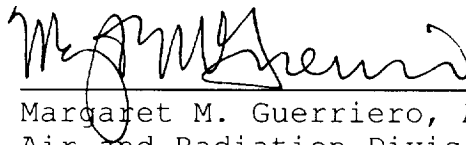
30. The provisions of this Order shall apply to and be binding upon General Iron, its officers, directors, agents, employees, and any successor(s) in interest. General Iron must give written notice of this Order to any successor in interest prior to transfer of ownership, and must simultaneously notify U.S. EPA, Region 5, in writing that such notice has been given.
31. This Order in no way affects General Iron's responsibility to comply with all applicable Federal, State or local laws

and regulations, including Section 303 of the Act, 42 U.S.C. § 7603; other applicable provisions of 40 C.F.R. Part 82; and State or County orders to cease work at the General Iron facility.

32. Nothing in this Order shall be construed to prevent or limit, in any way, U.S. EPA's right to collect penalties and pursue appropriate relief under Sections 113(b) and 113(d) of the Act, 42 U.S.C. §§ 7413(b) and 7413(d).
33. Pursuant to Section 114 of the Act, 42 U.S.C. § 7414, the Administrator or authorized representatives of U.S. EPA shall have the right of entry into, upon and through the General Iron facility for the purpose of carrying out any inspections, taking photographs, reviewing any records, observing tests, and conducting any tests, which are deemed by the Administrator to be necessary to ensure compliance with this Order.
34. Nothing in this Order shall be construed to restrict, in any way, U.S. EPA's authority to request additional information under Section 114 of the Act, 42 U.S.C. § 7414.
35. This Order will become effective on June 1, 1999 at 5:00 p.m Central Time.
36. U.S. EPA has elected to issue this Administrative Order in order to prevent further harm to human health and to the environment through continued emissions of HCFCs from the facility into the ambient air.
37. U.S. EPA reserves the right to determine, based on available information, that additional violations relative to HCFCs have occurred at the General Iron facility.

5/28/99

Date



Margaret M. Guerriero, Acting Director
Air and Radiation Division